

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

CAPISTRANO UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2014110528

ORDER GRANTING REQUEST FOR
CONTINUANCE AND SETTING
PREHEARING CONFERENCE AND
DUE PROCESS HEARING

On December 12, 2014, Capistrano Unified School District filed a request with the Office of Administrative Hearings to continue the dates in this matter based upon the unavailability of its legal counsel and several employees, who are scheduled to attend a conference on the hearing date, January 15, 2015. On December 16, 2014, Student opposed the request based upon the ability to start the hearing as scheduled, and then to have the unavailable person's to testify the next week.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Granted. All dates are vacated. District established good cause for a brief continuance of the hearing due to unavailability of its legal counsel and several witnesses from January 14 through 16, 2014. While Student's counsel asserts that she already has a

due process hearing scheduled for the requested dates of February 10 through 12, 2015, Student did not provide the OAH case number. Therefore, nothing in this order prevents Student from requesting a continuance based on a documented showing of unavailability, and meeting and conferring with District's counsel as to available dates. Therefore, this matter will be set as follows:

Prehearing Conference:	January 23, 2015, 10:00 AM
Due Process Hearing:	February 10, 2015, at 9:30 AM, February 11 and 12, 2015, at 9:00 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

DATE: December 17, 2014

/s/

PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings